

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	<b>Case No.     09-CR-043-SPF</b>
<b>v.</b>	)	
	)	<b><u>FILED UNDER SEAL</u></b>
<b>LINDSEY KENT SPRINGER,</b>	)	
<b>OSCAR AMOS STILLEY,</b>	)	
	)	
<b>Defendants.</b>	)	

**EX PARTE PETITION FOR COURT ORDER DIRECTING WARRANT  
TO ISSUE FOR ARREST OF MATERIAL WITNESS  
WHOSE PRESENCE MAY BE IMPRACTICAL TO SECURE**

The United States of America, by and through its attorneys, Thomas Scott Woodward, Acting United States Attorney for the Northern District of Oklahoma, and Kenneth P. Snoke, Assistant United States Attorney, and Charles A. O'Reilly, Special Assistant United States Attorney, petitions the Court for an order directing the Clerk of this Court to issue a warrant for the arrest of Philip Eugene Roberts, who was personally served with subpoena on September 28, 2009 (Attachment A) to appear before the United States District Court for the Northern District of Oklahoma on October 26, 2009, to provide testimony in the case of *United States v. Lindsey Kent Springer and Oscar Amos Stilley*, 09-CR-043-SPF.

1.     The Office of the United States Attorney for the Northern District of Oklahoma is prosecuting the criminal case identified above. This prosecution alleges violations of Title 18, United States Code Section 371, and Title 26, United States Code Sections 7201 and

7203. Roberts has been subpoenaed to appear, having previously been fully advised that he is not a potential defendant in this matter.

2. Roberts's testimony is material to the matters charged in the criminal proceeding, as more fully described in the attached Affidavit. Attachment B.

3. Roberts has submitted documentation to the United States Attorney's Office that indicates that Roberts will not honor the subpoena and will not appear to provide testimony. Attachment C. In order for a material witness arrest warrant to be issued, "statements or behavior must make it 'reasonably unlikely that [the witness] would appear at the suspect's trial.'" *See Stone v. Holzberger*, 807 F.Supp. 1325, 1337 (S.D. Ohio, 1992), quoting *White by Swafford v. Gerbitz*, 892 F.2d 457, 461 (6th Cir.1989). Robert's statements in the documentation mailed to the Office of the United States Attorney, which include the assertion the United States is "a foreign corporate venue," make it highly unlikely that he will appear at trial. Furthermore, Roberts has avoided contact with the government officials attempting to talk with him for a pretrial interview. The courts have previously approved a finding of probable cause that it may become impracticable to secure the presence of the person by subpoena where a witness renounced his United States citizenship. *See United States v. McVeigh*, 940 F.Supp. 1541, 1562 (D.Colo. 1996).

4. As in *United States v. Feingold*, 416 F.Supp. 627 (D.C.N.Y. 1976), the issuance of a material witness arrest warrant is appropriate in this case. In a remarkably analogous situation, the witness, Leonard Feingold testified before a grand jury that indicted

Thomas Nashi, the defendant, for tax evasion. The Special Agent asserted that Feingold could give material testimony at trial, and Feingold had signed checks totaling approximately \$50,000 that were payable to a company Nashi owned. In these circumstances, the Second Circuit stated “[t]hese facts alone are sufficient to support the Magistrate’s determination that Feingold’s testimony was material.” *Id.* at 628.

WHEREFORE, the United States Attorney petitions this Court to enter an Order directing the Clerk of this Court to issue a warrant for the arrest of Philip Eugene Roberts and that the United States Marshal for the Northern District of Oklahoma thereupon bring the said Philip Eugene Roberts before this Court.

Respectfully submitted,

THOMAS SCOTT WOODWARD  
ACTING UNITED STATES ATTORNEY

/s/ Charles A. O'Reilly  
CHARLES A. O'REILLY, CBA NO. 160980  
Special Assistant U.S. Attorney  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 7<sup>th</sup> day of October 2009, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing, and I hereby certify that I served the foregoing document by United States Postal Mail on the following:

Lindsey Kent Springer  
Defendant

Oscar Amos Stilley  
Defendant

Robert Williams  
Standby Counsel assigned to Lindsey Kent Springer

Charles Robert Burton, IV  
Standby Counsel assigned to Oscar Amos Stilley.

/s/ Charles A. O'Reilly  
Special Assistant U.S. Attorney